

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

January 22, 2004

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 22, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Kerry Coulter, Vice-Chair; James Barfield (In @ 1:40); Bud Hentzen (Out @ 4:40); John W. McKay Jr.; Bill Johnson; Elizabeth Bishop; Ed Sunquist and Bob Hernandez. Ronald Marnell, Chair; M.S. Mitchell; David Wells; Morris K. Dunlap and Frank Garofalo were not present. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; and Lisa Estrada, Recording Secretary.

COULTER Case #DR2004-01 will not be heard today and will be heard on at February 5th meeting. We do not have the minutes for the January 8th MAPC meeting so that will be on the next agenda as well.

1. Approval of January 8, 2004 MAPC meeting minutes.

No minutes to approve.

2. Consideration of Subdivision Committee Recommendations

2-1. SUB2003-78 – One-Step Final Plat – HAMPTON SQUARE ADDITION, located on the northwest corner of Maize Road and 37th Street North.

NOTE: This is an unplatted site located within the City. The site has been approved for a zone change (ZON 2002-29) from SF-5, Single-Family Residential to LC, Limited Commercial. The site is also subject to the provisions of the 37th and Maize Commercial CUP (CUP 2002-25, DP-262). The site is located within the area of the proposed alignment of the Northwest Bypass.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **An off-site easement is needed for the sewer main extension.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. An off-site drainage easement is needed.**
- D. The following transportation improvements are required:
 - a. A continuous right-turn accel/decel lane provided along the Maize Road frontage and also along 37th Street up to the major entrance.
 - b. Petition for future intersection improvements which may include raised center-medians at the 37th and Maize intersection and installation of a traffic signal at the northernmost entrance on Maize Road if warranted in the future
 - c. Left-turn lanes with adequate storage for queued vehicles on both Maize and 37th Street to be constructed in a phased manner upon the determination of City Engineering
- E. A cross-lot access agreement with the property to the north shall be provided effective upon platting of that property for any commercial development .
- F. Access controls have been platted in accordance with the CUP approval. The plat proposes three access openings both 37th St. and Maize. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the platlor's text. **The westernmost opening along 37th St. should be located at least 200 feet west of the major entrance for rights-in/out turns only or 400 feet west of the major entrance for full turning movements.**
- G. In accordance with the CUP approval, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. The Access Management Regulations require an additional 25-ft x 25-ft corner clip at the intersection corner.

- I. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA - NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted to have a wetland determination completed.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- M. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- N. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

2-2. SUB2003-110-- One-Step Final Plat -- SAND PLUM ADDITION, located south of 45th Street North, on the west side of Webb Road.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **An off-site utility easement is needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage guarantee is needed. A minimum pad elevation may be needed for Lots 10 and 11.**
- D. Complete access control needs to be shown on the east line of Lots 1 and 20.
- E. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- F. **City Engineering** has requested additional right-of-way along 43rd St. Circle. A 70-ft right of-way for a commercial street is needed from Webb Road to the west right-of-way line of the stub street to the north. **The Subdivision Committee has approved the 70-ft right-of-way with reduced setbacks.**
- G. The Applicant shall guarantee the paving of the proposed street. **Traffic Engineering** has requested a guarantee for the paving of the street to the business/industrial street standard from Webb Road to the stub street to the north, then transitioning to the 64-ft residential street standard.
- H. The Reserve shall be denoted as Reserve A.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- L. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- M. The MAPC signature block needs to be added and reference "John L. Schlegel, Secretary" and "Ronald L. Marnell, Chair".
- N. The Register of Deeds signature block needs to be added.
- O. **GIS** needs to comment on the plat's street names. **GIS has requested the street name be revised to "E 43rd Cir N". A street name is needed for the street stub to the north.**
- P. **County Surveying** requests distance and direction to all the monuments used o locate the land described in the certificate of survey.
- Q. Lots 19 and 20 should be in a new block.
- R. **County Surveying** advises that monuments along 43rd Street Circle (Block Boundary) need to be shown and installed.
- S. **County Surveying** advised that the benchmark has no description or elevation.
- T. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- U. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- DD. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

2-3. SUB2003-120– Final Plat – FAWN GROVE AT SUNSET LAKES ADDITION, located south of Kellogg, on the west side of Greenwich Road.

NOTE: This unplatted site was recently annexed into the City. The Applicant has requested a zone change (ZON 2003-64) to GO, General Office for Lot 95, Block 2, and Lot 59, Block 1.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City/County Engineering needs to comment on the status of the applicant's drainage plan. Stormwater Management has advised that the drainage plan must be in compliance with the drainage study currently being prepared for this area.
- E. The plat proposes one access opening along Greenwich. Access controls are approved.
- F. A 70-foot right-of-way for a commercial street is needed along Fawn Grove from Greenwich to the west line of Lot 1, Block 1 tapering to a 64-ft right-of-way.

The right-of-way has been platted as requested.
- G. Traffic Engineering has requested the right-of-way width be increased to 64 feet for the street stub to the south.

The right-of-way width has been platted as requested.
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. It is recommended that Reserve A be extended to the street by access easements or by narrow strips of Reserve between the lots to increase its accessibility and usefulness for all homeowners in the Addition.

The Applicant has provided an additional connection from the street to the Reserve as requested.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- M. Block 1 west of Smithmoor should be labeled as Block 3.
- N. **Traffic Engineering** has requested a petition for left turn lanes.
- O. Morris does not line up with Morris as platted in Harrison Park 2nd Addition by 1.48 feet.
- P. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- Q. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the plat application.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL Planning Staff presented staff report. Item D is noted by Stormwater Management advised staff that the drainage plan needed to be in compliance with the drainage study that was currently being prepared and subsequent to last weeks meeting Engineering did inform me that there was a meeting with the applicant and the consultant and that the plat can go on as proposed. There is some drainage structure sizing still being decided and that can still be addressed at the time of the petition cost estimation.

BISHOP Can Item A, be eliminated?

STRAHL Correct Item A can be eliminated because the zone change has already been approved.

MOTION: To approve, subject to staff comments and citing the findings in their report.

SUNQUIST moved, **BISHOP** seconded the motion, and it carried (8-0).

2-4. **SUB2003-149– Final Portion of an Overall Preliminary Plat – AVALON PARK THIRD ADDITION, located on the east side of Tyler Road, north of 37th Street North.**

NOTE: This final plat is a portion of the overall preliminary plat of the Avalon Park Addition, which was approved for this site on January 16, 2003. This final plat consists of the northern portion of the overall preliminary plat approved for the site and represents the second phase of development. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved.**
- D. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- E. If any of the intended recreational uses for the reserves includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- J. **GIS** needs to comment on the plat's street names. **Crown Ridge needs to be revised to a new name.**
- K. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and Aquila have requested additional easements.**
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

CORKY ARMSTRONG, Road Design Engineer, Bureau of Design, 9th Floor, 881 West, Topeka, KS The City of Wichita, Sedgwick County and KDOT, are currently involved in a project to identify the highway corridor around the northwest part of the City Wichita. As part of this project, right-of-way will be acquired to preserve the corridor for the construction of a future freeway that would connect K-96 in the area of the subdivision plat to US-54, east of Goddard. The City of Wichita and Sedgwick County applied for funding for this particular project through the system enhancement program that is part of the State Highway Transportation plan. This project is commonly known as the Northwest Bypass, and was selected as a system enhancement back in the fall of 2000.

A concern here today is the impact that this project will have on this proposed plat that is adjacent to K-96. Preliminary information from our consultant indicates we will need to acquire an additional 100 feet of right-of-way south of this section line, which is the north boundary of the plat. Obviously the way the plat is laid out right now, it will significantly impact the northern tier of Lots on the proposed subdivision. If we take 100 feet of the north part of the plat that will pretty much require KDOT to buy each and every one of those lots the way that it is configured at this time. In an effort to address this issue, we are going to propose that we open discussion with the owner and developer to consider an early right-of-way acquisition for these 100 feet. That would allow them to prepare a plat that would preserve the right-of-way that we are going to acquire for the future bypass.

MCKAY Corky, can you show us approximately the right-of-way, and how it will go through that piece of property?

ARMSTRONG On the plat, this line right here is the section line, and we would be acquiring 100 feet south of that section line, and I am not sure what the scale of the plat is here, but we would be buying property that is 100 feet south of that line; right there in order to accommodate the connection up here of the bypass to the existing K-96.

MCKAY Is there going to be an interchange at Tyler and K-96?

ARMSTRONG Tom was telling me that the 100 foot line is approximately right on the top of these cul-de-sacs.

MCKAY Is there a proposed interchange at Tyler and K-96?

ARMSTRONG No, there is not. We are planning on going over Tyler at this time. That is one of the reasons why this additional right-of-way is required because we are going to be quite a ways up in the air to get over the railroad, and over Tyler Road.

MCKAY Show me approximately where is the line? Is it going to be coming in straight east and west or is it going to be coming in at an angle?

ARMSTRONG It will be coming in straight east and west.

MCKAY So, it would not hurt the entrance to this subdivision off of Tyler in any way, shape or form?

ARMSTRONG Correct.

HENTZEN Do you think that the City and the County authorities will make a decision when you present your project next week? Or will there be 6 months or 9-month delay?

ARMSTRONG We have been coordinating with the City and County authorities all along through the whole process, and we believe we have consensus from them that what we are going to present to them is acceptable. This consensus is with the technical staff. We have not met with the elected officials.

HENTZEN Further west around Goddard have you come up with a recommendation to come down 254 too? Is it going north of Goddard?

ARMSTRONG We have met with the City of Goddard, and we presented our recommendation that we go through the City of Goddard, and they had some concerns about that. We have tried to answer those concerns, and they polled the City Council, and for the most part they were all in favor for the through-town option, but they still have some concerns that we are trying to address.

SCHLEGEL At what point will the decision be made to fund and build that highway?

ARMSTRONG At this point, we have no funding dedicated to any construction work on this particular project, and the Northwest Bypass. The project we are talking about here now is a project to identify the corridor, do enough design work to identify the right-of-way required for that and to buy that right-of-way. The funding for any construction work on the bypass is anybody's guess. The money for the engineering work is there at this point in time, and that is our goal.

BARFIELD Regarding this particular project, your only concern would be the 100 feet of right-of-way that you are speaking to today?

ARMSTRONG What we would need to do is to acquire the northern most 100 feet of the plat as it is proposed today, and that would take care of any right-of-way issues that would be associated with this particular development.

BARFIELD Is that your only concern with this particular project?

ARMSTRONG That is our only concern in relation to the plat, yes, is to preserve the right-of-way that is necessary to at some future date build this bypass.

BARFIELD Have you had any discussion or negotiations at this time with the developer?

ARMSTRONG No, we have not.

BARFIELD How long would you anticipate that those negotiations would take?

ARMSTRONG I really don't have any idea. What we would propose is to get our right-of-way folks involved, and contact the person or persons and explain to them what the situation is, and try to negotiate a price to acquire this particular 100 feet of right-of-way that we are going to need. There will be some differences of opinion of how much the 100-foot is worth. If we can't reach an agreement on the cost to acquire the right-of-way, our only recourse would be to go to condemnation, and go through the legal process.

BISHOP I am still at the question when will this plat be ready to go?

ARMSTRONG I have spoken with Mr. Lackey about this plat, and within the last two-three months we really could not identify that 100 foot line so it would be foolish on our part to come down here and say we know that we are going to have something, but we don't know what. So when we were made aware that the plat was up before the Planning Commission we decided that we had the 100 foot identified, and we had enough confidence in that 100 feet to come down here and say that we know that we need that. We don't think it is a good idea to approve a plat that we know is going to be disrupted in two or three years when we come back to acquire this right-of-way.

After next Wednesday's meeting, and we get some kind of official consensus that the corridor is agreeable to everyone that is where we are going; what we will do is survey the corridor, and start to work on the environmental documentation to make sure that we have the appropriate documentation that will support the corridor. We will start the survey, the design of the plans, and once we get to a point where it is approximately 50% done with the design, where we can identify the right-of-way for the whole project, then we will start the acquisition process and with the right legal descriptions. The time duration will probably take about three years to get there.

HERNANDEZ How does right-of-way differ from condemnation?

ARMSTRONG Condemnation is the right that the State has which is eminent domain, which means that we can acquire property even though the landowner is not agreeable. We would go through the process which involves a filing of the condemnation procedures with the court. The court would appoint an appraiser to appraise the property, and the appraisers would determine the amount of money that KDOT would have to pay for that property and then we would put that money in an escrow account, and we would take possession of the property when the money went into the escrow account. We would prefer to pay fair market value for the right-of-way.

HERNANDEZ Is that what you are asking for now?

ARMSTRONG That is the direction that we would go first. We would appraise the property, and then we would make an offer on that property, and then there is a period of negotiation there and try to come to an agreement, and if that fails then we would go into the legal process.

Issac Krumme, PEC, 303 S. Topeka, Wichita, KS I am the agent for the applicant. I am unprepared here because we just found out about this at the last minute because at the subdivision hearing we were in agreement with staff comments. I know that the developer knew when he started looking at this ground that has been an issue that he has been dealing with the whole time. There is a floodplain there, and it is an issue for the developer to be able to maximize his ground, and in fairness to the developer, I think this has been something that we have tried to work with, and at the moment this is the solution that we had for the platting of this ground.

SUNQUIST If they are going to take that 100-foot of right-of-way that would completely change the plat right?

KRUMME Correct. That cuts off that back row of lots, and that also means there is going to be a highway closer to the ground there to the lots, and in order to be able to market the ground that would in turn effect maybe a buffer between there. As you've seen in a lot of instances around town where residential land backs up to highway, they will have some sort of berm or buffer in there, and then that will require a replat of this.

BISHOP Would the applicant be amenable to a deferral?

KRUMME I think that would be wise. We would rather not hold up the proceeding of this, but we would like to get everything straightened out before a decision is made on this.

JOHNSON Being on Subdivision Committee, we didn't have any of this information from KDOT a week ago, so I can imagine what the engineering consultant, and the owner think about this now. But I think a deferral is a good suggestion.

MOTION: To defer Item 2-4 for 30 days based on what the City and County will do next week at their hearing if they make a decision at that point in time. I think 30 days is more appropriate versus 2 weeks.

BARFIELD moved, **HERNANDEZ** seconded the motion, and it carried (8-0).

2-5. **SUB2003-136-- Final Plat -- KRUG NORTH ADDITION, located on the north side of 21st Street North and the west side of 143rd Street East.**

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2010 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan. Upon the annexation of the adjoining property to the west, this property will be eligible for annexation and will be converted to SF-5, Single-Family Residential

upon annexation. The site is located within the 100-year floodplain.

The southeastern portion of the preliminary plat proposed for commercial development has not been included in this final plat.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The guarantee shall include a petition for a water main along 143rd St. East. **City Water and Sewer Department has requested an agreement which limits sewer connections based upon capacity.**
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. A guarantee is needed.**
- E. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **A petition for accel/decel lanes and a left turn lane is requested for 21st St. North and 143rd St. East. The Applicant will meet with Traffic Engineering regarding improvements along 143rd St.**
- F. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- G. A temporary cul-de-sac should be platted for Krug and referenced in the plat's text.
- H. **County Surveying** advises that the benchmark needs a better description.
- I. The dimensions for Reserves A and E need to be revised to denote a width of 8 feet.
- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. **GIS** needs to comment on the plat's street names. **Krug needs to be revised to a new name. Castle Rock needs labeled on sheet 2.**
- O. The applicant shall submit a copy of the instrument which establishes the proposed pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- P. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- Q. Since Reserve D includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article

8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

2-6. SUB2003-147- One-Step Final Plat – PERRY GEORGE ADDITION, located on the south side of MacArthur and west of Tyler Road.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and will be converted to SF-5, Single-Family Residential upon annexation.

STAFF COMMENTS:

- A. Prior to this plat being forwarded to the City Council, the applicant shall apply for annexation to Wichita. If the annexation is completed prior to the plat's submittal for City Council review, only City Council approval and not County approval will be necessary.
- B. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact City Environmental Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. **A site plan is needed to determine proper location of required soil and groundwater testing.**
- C. City Water and Sewer Department requests a petition for future extension of sanitary sewer and City water services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. City/County Engineering needs to comment on the status of the applicant's drainage plan. **County Engineering received drainage plan and will forward to City Engineering for review.**
- F. The Applicant needs to verify that the parent property to the south is not landlocked.
- G. The plat's text shall denote the creation of the floodway reserves in addition to including the standard floodway language.
- H. **Traffic Engineering** needs to comment on the access controls. The plat denotes one opening along 39th St. South. **Traffic Engineering has requested 130 feet of complete access control from the west property line in accordance with Access Management standards. The Applicant shall meet with Traffic Engineering to discuss potential shared access with the property to the west; or in the alternative an offsite dedication of complete access control.**
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on

subject property.

- J. The Applicant is advised that if platted, the building setbacks may be reduced to 25 feet.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- U. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov) . This will be used by the City and County GIS Department.

MOTION: To defer Item 2-6 for 2 months.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (8-0).

2-7. SUB2003-150– One-Step Final Plat – STONEYPARK ADDITION, located on the west side of Greenwich Road, north of 47th Street South.

Note: This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (ZON 2001-67) from RR, Rural Residential to SF-10, Single-Family Residential. A conditional use (CON 2001-59) was also approved for a community alternative sewer system; although this plat will utilize a community lagoon. Due to its density, the plat is classified as an urban subdivision.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. **A memorandum shall be obtained specifying approval of the proposed community lagoon from County Code Enforcement. The community lagoon must be permitted by the Kansas Department of Health and Environment.**
- B. In accordance with the Conditional Use approval, a county Sewer District must be established to be responsible for the use of the community lagoon, as well as the tank and pump system to be located on each lot.
- C. In accordance with the Conditional Use approval, the sewage treatment plant and collection system design should be reviewed by the **City Water and Sewer Department**. **City Water and Sewer Department has advised that the site is located outside of their planned sewer service area and will not be served by the City of Wichita in the future.**

- D. An adjustment to the Conditional Use will be needed due to the site plan revision.
- E. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- F. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- G. **County Engineering** needs to comment on the status of the applicant's drainage plan.
- H. **City/County Engineering** needs to comment on the need for any improvements to perimeter streets. **City Engineering has requested a petition for contingent left turn lanes.**
- I. **City/County Engineering** needs to comment on the access controls. The plat denotes complete access control along the plat's frontage with two entrances into the site. **Access controls are approved.**
- J. In accordance with Access Management Regulations, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed along 42nd St. South from Greenwich and along Stoneypark from Greenwich.
- K. A dimension needs to be added along the south line of Lot 10, Block 1.
- L. A temporary cul-de-sac needs to be platted along the terminus of Stoneypark and 42nd St. South along the west line of the plat.
- M. "Lots, Blocks, Reserves and Streets" shall be referenced in the plat's text.
- N. "Wichita" shall be deleted from the title block.
- O. The applicant shall guarantee the paving of the proposed streets to the suburban street pavement standard.
- P. Language defining Reserve "A" needs to be clarified and revised to properly reflect ownership and maintenance of the sanitary sewer district.
- Q. The Applicant shall contact **Sedgwick County Fire Department** to discuss water for fire protection. **County Fire has required the installation of a dry hydrant or a cistern.**
- R. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- S. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- T. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- U. The applicant is advised that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- V. The year "2004" needs to replace "2003" within the signature blocks.
- W. The Applicant is advised that if platted, the building setbacks may be reduced to 25 feet from the internal roads.
- X. **GIS** needs to comment on the plat's street names. **Honeytree needs to be revised to La Homa or a new name. Brandon needs to be revised to Christopher or a new name. Stoneypark needs to be revised.**
- Y. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Z. For any lots with existing tree rows that may be impacted by the installation of utilities, it is recommended that 30-ft utility easements be platted in order to allow for the installation of the utilities without damage to such tree rows.
- AA. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- BB. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as

per the direction and approval of the Chief of the Fire Department.)

- CC. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- DD. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- EE. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- FF. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- GG. Perimeter closure computations shall be submitted with the final plat tracing.
- HH. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- II. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**
- JJ. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL Planning Staff presented staff report. The zone change to "SF-10" was approved 2 years ago in 2002, and a Conditional Use was also approved for a community alternative sewer system, although now they are proposing a community lagoon. Last week the plat was approved by the Subdivision Committee, and items included in that approval were: the need for the approval of the lagoon by both KDHE and County Code Enforcement; a petition for contingent left turn lanes for traffic; paving for the proposed streets to the public street paving standard which would be 6-foot asphalt with open ditches; and a meeting with County Fire Department to discuss an alternative water supply. Also an adjustment to the Conditional Use - although now staff is recommending that condition be revised to read adjustment or amendment to the Conditional Use to reflect the revised site layout. Subsequent to last week's meeting, the applicant has met with County Fire Department to discuss alternative water sources, and County Fire Marshall is requiring installation of a dry hydrant or a cistern that would include an underground tank in accordance with the County Fire Code. At last week's meeting, we had residents from the area address the Subdivision Committee, and their concerns were in regards to the sewer system, drainage, and the density of development. Subsequent to last week's meeting, we received three other letters from residents in the neighborhood.

MCKAY I was contacted on this prior to this meeting.

BISHOP I was contacted as well.

KIRK MILLER, K. E. Miller Engineering Can we defer our comments for 2 weeks?

JIM MARTIN, 4300 S. Greenwich, Wichita, KS 67037 We will be back in two weeks, but I think it is appropriate to allow us to comment today because we didn't know about the permit until a few hours before today's meeting.

Rosemary Martin has lost her voice, and has asked me to read a note on her behalf. She takes issue with the potential change of ownership before the final plat, and suggests that maybe we should start over on this project which involves a lagoon instead of a sewer system, as originally approved. The type of subdivision is in the country without city utilities, an increase density of population, the increased traffic, and contamination of our rural setting, as well as the safety of the animals, and their habitat.

Now speaking for myself, we have the property directly across Greenwich Road. We have an 80-acre horse operation so we have concern about this proposed subdivision. In Dec. 2001, there was much discussion about it. We changed the zoning from "RR" to "SF-10", and that was contingent on a number of factors. County Resolution 3-02, January 2, 2002, was approved by the County Commission. There were 6 major conditions. The site plan we are presented today is different from the site plan that we saw at that time - the sewage treatment plant and collection system. The point here says sewage treatment system, and not lagoon. None of the conditions have been met, and this should be null and void. There is opposition to this subdivision and development. We need to control the rural setting in which we have elected to build and expand.

CHERYL MANAHAN, 10727 E. 39th Street South, Wichita, KS 67037 I too am in the horse business, and I feel like we have not been given a lot of notice on this, and kept informed as to how everything is going. I think the whole plan needs to be a lot clearer, and some of the things I feel like I have not been told correctly. I am concerned about the fact that city utilities are not available for the area which makes it clear to me that there was never an intent for this area to be that densely populated. We have concerns about the lagoon system. Will there be enough floodway there to handle all of the water?

TERESA D. CRAWFORD, 11000 E. 39th Street South, Wichita, KS 67037 We were told that this would be developed rural. This will add to the traffic on Greenwich, which is only a two lanes right now. I am opposed to this development.

BILL KONKLIN, 4135 S. Greenwich, Wichita, KS 67037 I have a problem with the lagoons. I have seen them flood where they are at right now, and you are leaving them right now, and you only have 12 trailers in there now, and you are going to put 64 trailers in there, and add one more lagoon in there. It is going to flood over again. Your road will not maintain 64 more families. It is busy right there at 47th and Greenwich. I have a problem with the utilities. This is a Derby community, and we are already having problems with the Derby water.

WILLIAM BMMES, 4343 S. Greenwich Road, Wichita, KS 67037 I feel this development will negatively affect my property. I am a horse owner and enjoy the land around me. The proposed addition will border my property, and the plan scares me having so many people in close proximity to the horses. The horses are gentle creatures, but persons are unwelcome guests to their home. Even the petting zoos have fences, not for the animals but for the people. There is no peaceful way to ensure the safety of the horses in the area, and for the curious and wondering person in the area. As the property has been zoned Rural Residential, it minimizes danger to people and horses. The environment is beautiful in the county. I am troubled by the drainage and the lagoon. The demand on water now makes water pressure bad. Two lane roads will make it more dangerous, and the taxpayers will have to pick up the tab on that as well. I stand to lose property value as well.

BARFIELD Neil, at Subdivision Committee hearing the Sedgwick County Fire Department representative stated that he had concerns about the property density. Do you know if those concerns have been addressed?

STRAHL Yes, the applicant met with the County Fire Department, and they informed me that a underground storage tank would be one option or the installation of a dry hydrant which would consist of a retention pond with a 6 inch pipe to connect to their fire hoses, and the applicant hasn't decided what they want to do yet but one of those two options will be required by County Fire Department.

MOTION: To defer Item 2-7 for 2 weeks.

MCKAY moved, **BISHOP** seconded the motion, and it carried (8-0).

2-8. SUB2003-141– One-Step Final Plat – YSIDRO ADDITION, located north of MacArthur, on the east side of Broadway.

NOTE: This is an unplatted site located within the City. The applicant requests a zone change from SF-5, Single-Family Residential to GC, General Commercial for the eastern portion of Lot 2.

STAFF COMMENTS:

- A. **City Environmental Health** may have concerns regarding groundwater pollution. These issues will be addressed at the MAPC hearing for the zone change.
- B. City water services are available to serve the site. **The applicant shall guarantee the extension of sanitary sewer to serve Lot 1.**
- C. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A cross-lot drainage agreement and an off-site drainage agreement are needed.**
- F. Additional right of way dimensions are needed.
- G. The Riverside levee and Big Arkansas River need to be designated.
- H. The location of the established bank lines needs to be verified if located within the boundaries of the plat.
- I. A lot dimension on Lot 1 is needed.
- J. **Traffic Engineering** needs to comment on the access controls. The plat needs to denote access controls along Broadway on the face of the plat. The plat's text proposes one access opening for each lot. **Traffic Engineering has approved the access controls. A restrictive covenant shall be submitted that permits future cross-lot access with the abutting property owners to the north and south of Lots 1 and 2.**
- K. **Traffic Engineering** has requested additional right-of-way along Broadway. The Access Management Regulations requires a 60-ft half-street right-of-way width along urban arterials.
- L. **Traffic Engineering** has requested a petition for a contingent left-turn lane.
- M. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above

groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- N. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- O. The year "2004" needs to replace "2003" within the signature blocks.
- P. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. A Block shall be designated on the face of the plat as referenced in the plat's text.
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (8-0).

2-9. **SUB2003-23- One-Step Final Plat – 29th STREET WEST CHURCH ADDITION, located west of Ridge Road, and on the north side of 29th Street North.**

NOTE: This is an unplatted site located within the City.

Planning Staff recommends approval of the plat.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. **City Water and Sewer Department advises that the property has not been assessed for the water or sewer main. The applicant will need to pay fees in lieu of assessment**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. On-site detention is needed.**
- D. **Traffic Engineering** needs to comment on the access controls and the need for a minimum separation from N. Topaz Circle.

The plat proposes two access openings along 29th Street. **Two openings are approved by Traffic Engineering.**

- E. **Traffic Engineering** has requested a guarantee for a left turn lane contingent upon a Traffic Engineering study.
- F. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

NEIL STRAHL, Planning Staff This is the 29th Street North Church Addition. This plat was originally approved by the Subdivision Committee March 2003. The applicant requested that it be deferred from the subsequent Planning Commission meeting due to issues of access. Those issues have been resolved per Item D of the staff report. The plat is proposing 2 openings along 29th Street, one along the west portion of the plat and one along the east and both of those openings have been approved by Traffic Engineering. I spoke with the gentlemen who wanted to address you today and his concerns really had to do with Land Use matters and specific development of the property. I explained to him that those were not really platting issues and I did give him the agents name and he was going to speak with them about the specifics of the proposed development.

HAROLD JOHNSON, 7610 ShadowLakes, Wichita, KS 67205 I am a member of the Forest Lakes Homeowners Association and this was brought to our attention just this week. Basically we have concerns about drainage and so forth and I spoke with staff people here. A lot of those issues have been looked at. We are also concerned with lighting which he said was more of a Land Use issue.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BISHOP moved, **HERNANDEZ** seconded the motion, and it carried (8-0).

2-10. DED2003-29 – Dedication of a Utility Easement, for property located on the southeast corner of Ninth and Sheridan.

OWNER/APPLICANT: Austin Brumley, 6606 Weaver Cr., Wichita, KS 67212; and Forest S. Tennant, 338 S. Glendora Avenue, West Covina, CA 91790

AGENT/SURVEYOR: Greg Tennant, 8922 Meadowpark Ct., Wichita, KS 67205

LEGAL DESCRIPTION: A two-foot utility easement on property described as follows:

The west two feet of the east 157.5 feet of Lot 1, Weaver Tracts Addition, Wichita Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-143) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

2-11. DED2003-30 – Dedication of a Utility Easement, for property located south of Central, west of West Street.

OWNER/APPLICANT: Austin Brumley, 6606 Weaver Cr., Wichita, KS 67212; and Forest S. Tennant, 338 S. Glendora Avenue, West Covina, CA 91790

AGENT/SURVEYOR: Greg Tennant, 8922 Meadowpark Ct., Wichita, KS 67205

LEGAL DESCRIPTION: A two-foot utility easement on property described as follows:
The west two feet of the west 139.5 feet of Lot 1, Weaver Tracts Addition, Wichita Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-143) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

2-12. DED2003-31 – Dedication of a Utility Easement, for property located north of Central, west of Hoover Road.

OWNER/APPLICANT: Robert and Clara Womack, 738 N. Eisenhower, Wichita, KS

AGENT/SURVEYOR: Benchmark Land Survey, 617 E. William, Wichita, KS
67202

LEGAL DESCRIPTION: A two-foot utility easement on property described as follows:
The east two feet of the west 10 feet of the E½ of Lot 6, Block B; and the west two feet of the east 10 feet of the W½ of Lot 6, Block B, West Central Gardens Addition, Wichita Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-138) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

3. Case No.: CON2003-51 - The City of Wichita (owner); RRM Properties LLC (applicant); Chuck Hill (agent) Request Amendment to extend the deadline for landfill operations to cease per CON2002-37 on property described as;

That part of Government Lot 1, in Section 10, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas lying east of the Wichita Chisholm Creek Diversion Canal, EXCEPT that part lying northeasterly of the A.T. & S.F. Railroad Right-of-Way, and EXCEPT that part described as beginning at the point of intersection of the north line of the NE 1/4 of said Section 10, with the west right-of-way line of said A.T. & S.F. Railroad; thence west along the north line of said NE 1/4, 431.6 feet more or less to the east line of the Wichita Chisholm Creek Diversion Canal Right-of-Way; thence southeasterly along the east line of said Drainage Canal Right-of-Way a distance of 646.5 feet more or less to the center line of the abandoned bed of the Chisholm Creek; thence northeasterly, easterly, and southeasterly, along the meanderings of the center line of said abandoned Chisholm Creek to a point 680 feet south of the north line of said NE 1/4; thence east parallel with the north line of said NE 1/4, 248.34 feet more or less to a point on the westerly Right-of-Way line of said A.T. & S.F. Railroad; thence northwesterly along the westerly Right-of-Way line of said railroad to the point of beginning, and EXCEPT a tract of land in the NE 1/4 of Section 10, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, further described as follows: Beginning at a point on the westerly Right-of-Way line of

the A.T. & S.F. Railroad N 89 degrees 47' W 1526.15 feet and S 37 degrees 31' East 859.98 feet from the Northeast corner of the said NE 1/4 of said Section 10; thence along said westerly Right-of-Way line S 37 degrees 31' East 1499.21 feet to the east line of said NE 1/4; thence along said east line S 02 degrees 46' West 242.34 feet to the centerline of Chisholm Creek; thence along said centerline the following bearings and distances North 26 degrees 46' West 46.59 feet, North 13 degrees 15' West 213.50 feet, North 43 degrees 01' West 349.10 feet, North 28 degrees 53' West 472.42 feet, North 49 degrees 23' West 417.83 feet, South 25 degrees 00' West 138.42 feet, South 76 degrees 24' West 96.58 feet, North 31 degrees 05' West 209.45 feet, North 05 degrees 10' West 194.00 feet, North 47 degrees 00' West 25.48 feet; thence South 89 degrees 47' East 248.34 feet to the point of beginning. TOGETHER WITH those portions of Government Lots 1 and 2 of Section 11, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, lying westerly of a line drawn parallel and concentric with and distant 50.0 feet westerly, as measured at right angles and radially from The Burlington Northern and Santa Fe Railway Company's (formerly The Atchinson, Topeka and Santa Fe Railway Company) Main Track centerline, as now located and constructed and lying north of the following described line: Commencing at the intersection of the north line of said Lot 2 with a line which lies 50 feet westerly of, measured normally distant from the center line of the present main track of the Railway Company; thence in a southerly direction along said line which lies 50 feet westerly of, normally distant from and parallel to said center line of the present main track of the Railway Company, a distance of 550.8 feet to the true point of beginning; thence North 80 degrees 00' West, 137.6 feet; thence North 05 degrees 15' West, 60.25 feet; thence West to the left bank of the Arkansas River. Generally located South of 31st Street South and west of K-15

BACKGROUND: The applicant is seeking a six-year, nine-month extension to the current April 1, 2004 deadline established by the City Council on December 10, 2002 (case number CON2002-37) requiring the applicant to complete and halt construction and demolition (C&D) landfill operations by April 1, 2004. The proposed extension would allow C&D landfill activities to continue until December 31, 2010.

The application area is located west of Highway K-15 and south of 31st Street South, and is zoned "LI" Limited Industrial, subject to the conditions contained in Conditional Use 425, and subsequent amendments contained in CON 2003-37. The site is 26.14 acres in size. Access to the site is via a driveway connecting to Highway K-15, and generates approximately 25 to 30 trips per day. The property is owned by the City of Wichita. The applicant leases the site from the City. When landfill operations cease, the site is expected to be re-developed into a park.

The majority of the land west of K-15 Highway, and north of the landfill site is zoned "LI" Limited Industrial, and is currently used for construction activities. The Wichita Wastewater Treatment facility, the closed Chapin Sanitary Landfill, the Wichita drainage canal and the Arkansas River are located west of the application area. East of the site are: railroad tracks, K-15 Highway, several single-family residences on property zoned "SF-5" Single-family Residential and a mobile home park (at the southeast corner of 31st Street and K-15) located on property zoned "LC" Limited Commercial. Several commercial uses are located at the northeast corner of 31st Street and K-15 on property zoned "LC". Areas south of the landfill are undeveloped and zoned "LI" and "SF-5".

The Kansas Department of Health and Environment (KDHE) has a prohibition on issuing permits for landfills located within a ½ mile of a navigable river (KSA 65-3407 (k)(1)). The site is adjacent to the Arkansas River. A year ago, KDHE advised the applicant they would not renew their permit to continue operations. The lessee has continued to request an extension of its KDHE permit, and that determination is not final.

CASE HISTORY: Conditional Use 425 was approved by the MAPC in February 1997. CU-425 contained a condition requiring that the deposit of material on the site cease by April 1, 2003. CON2002-00037, an amendment to CU-245 was approved by the Council in 2002. This amendment extended the deadline to cease deposit of material to April 1, 2004. The applicant had requested that the deadline be extended to 2010.

ADJACENT ZONING AND LAND USE:

NORTH: "LI" Limited Industrial; undeveloped
SOUTH: "LI" Limited Industrial; undeveloped
EAST: "SF-5" Single-family Residential,
"LC" Limited Commercial; residential and commercial
WEST: "LI" Limited Industrial: Arkansas River, Wastewater Treatment Facility

PUBLIC SERVICES: The site has access to K-15 Highway, a four-lane expressway. Municipal sewer or water services are not necessary for this use.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as appropriate for industrial uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. The plan does not have location guidelines for C&D landfills. Plan objectives also recognize the need to minimize the potential for environmental contamination which maintaining cost efficiency by proper management of construction debris generated throughout the County. The City and State have recognized the impact of pollution on the Arkansas River and its subsequent spread through the river's area as potentially detrimental to the public health and the environment. The Arkansas River has status as a "navigable stream used for interstate commerce", under KSA 65-3407 (k) (1) and other statutory and judicial interpretations. This recognition, and concern for the environment, has been applied by the City and the State in opposing the establishment of a C & D landfill (ZON2000-51 and CON2000-52) at 3500 North West Street, because of its proximity (1/2 mile) to the Arkansas River.

RECOMMENDATION: Based on the earlier action taken by the City to oppose a C&D landfill within a ½ mile of the Arkansas River at 3500 North West Street, and information available prior to the public hearings, planning staff recommends that the request be **DENIED**.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The majority of the land west of K-15 Highway is zoned "LI" Limited Industrial, which allows a wide variety of uses. Property east of K-15 is zoned "SF-5" Single-family Residential and "LC" Limited Commercial, and developed with residential and commercial uses. Land use in the area ranges from residential to industrial.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned for "LI" subject to the conditions in CU-425 and CON 2002-37. One of those conditions requires that the C&D operations cease by April 1, 2004. The base "LI" zoning district allows an extensive list of uses. Since the original conditions were established, the City has opposed a request to approve a similar operation with a similar proximity to the river, and the City Council denied a request to extend the deadline to 2010 by the same applicant on this same site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Denial of this request would return the property to its base "LI" zoning, and the property would be available for other appropriate uses, including a park. Therefore, denial of the request would not impose any detrimental affect on nearby properties. Both the State and the City have raised concerns about the location of a C&D landfill in such close proximity to a river and potential environmental impact.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The hardship imposed on the applicant is primarily economic. However the applicant was aware that the lease ran with the Conditional Use that contained the original deadline and then the later deadline established approximately one year ago with CON 2002-37. Closure of the site should enhance public health and welfare, given the site's proximity to the river and past concerns expressed by area residents' dealing with traffic, dust noise and potential pollution.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita Land Use Guide depicts this site as appropriate for industrial uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services and be provided with good access to major arterials and should b extensions of existing industrial uses. The plan does not have location guidelines for C&D landfills. However, the plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county. The City and the State have recognized the impact any pollution in the Arkansas River and its subsequent spread through the river's area as potentially detrimental to the public health and the environment.
6. Impact of the proposed development on community facilities: If the request is denied, none identified.
7. Neighborhood support or opposition. There has been significant neighborhood opposition to earlier requests to extend landfill operations at this location. Over 47 protest petitions were filed objecting to CU-425. All of the protesting properties were located beyond 200 feet of the application area. (Protest petitions for properties located beyond 200 feet of the application area are not counted towards the 20% area needed to trigger a ¾ majority vote to override the neighbors' objections, they are treated as appeals.) For the most recent request to extend the lifespan of the facility (CON2002-00037), 26 property owners filed protest petitions. All of these properties were also located beyond 200 feet of the application area.

If, however, the Planning Commission finds the request for the extension of time to operate the C&D landfill is appropriate, staff recommends the same conditions as contained in CU-425 (including the requirement that the applicant maintain an approved operating permit from KDHE), except for the time limit.

BARFIELD This property is owned by the City of Wichita?

MILLER Correct. They are not the applicant.

HERNANDEZ Where did this Wichita Eagle article come from?

MILLER One of the property ow ners submitted that.

MCKAY When this was approved didn't the applicant have to go back to KDHE to get a permit?

MILLER Yes, to get a license, I am not sure what the correct term is.

CHUCK HILL, CORNEJO & SONS, A year ago we asked you to extend the time limit to December 2010, after the public hearing and after some discussion the MAPC agreed to extend it to April 1, 2009. At that time it was set to expire in April 2003. The matter was appealed to the City Council, and at the City Council meeting Council Member Lambke stated, as far as he could tell, that our operation conformed to all regulations. That all the dust that the neighborhood residences complained of was generated by other operations, and the worries about the contamination of the river were unfounded with the monitoring wells, and the compliance with operation rules and regulations. He nonetheless, in consideration with some of his constituents, suggested to the City Council that they approve an extension to only one year so the matter could be reviewed by the City Council, and determine if there had been any complaints or problems in that period of time. so that is why we are back here taking this matter up again. None of the facts have changed. None of the laws have changed.

We are continuing in our effort to obtain a modification of our KDHE permit. We are continuing to operate pursuant to a Stay Order issued by KDHE. In the last year, since we were here, we have gone to D.A.B. meeting, community meetings, and invited the residences f they had any problems with our operations to call us, and Ron Cornejo was there, and our number is in the phone book. We have not had a single phone call or a single letter of complaint from anyone about this C & D landfill operation within this last year.

We have not had any communication from Central Inspection that is charged with enforcing the Conditional Use permit that we had any problems with the violation of the Conditional Use permit. Every single inspection we have had by City/County Health, and by KDHE, we have been found in full compliance with all rules and regulations, and we have not a violation of any rules. Those inspections are conducted on, at least a monthly basis by the County. In short, the only action we are requesting today is to approve our request for extension of time so that we can continue in our efforts to resolve the issue with KDHE. The issue about the proximity to the river, which is raised in the staff report, is a legal issue to be dealt with KDHE, and we are still in that process. If we don't get a permit the landfill will close.

MCKAY How many years has this been a landfill?

HILL Operations actually began in the spring of 1999. We got the first Conditional Use permit, I believe, in February 1997. Then we went through the permitting process with the State, and we didn't get the permit until January 1999. Operations begin that spring, so about five years this spring 2004.

MCKAY What percentage of the fill original landfill has been done?

HILL We are probably somewhere around approximately 50% would be our best estimate.

BARFIELD You said nothing changed since last year. I remember last year there was quite a bit of discussion by this body regarding whether or not you would be issued another permit. Since that time we have had notification by KDHE that they will not renew your permit. Certainly that has changed?

HILL We applied for a modification of the KDHE permit. There was a public hearing. The initial order of the Secretary was to deny the modification based strictly upon the statute, which says that you can't have a landfill within 1/2 mile of a navigable stream, used for Interstate Commerce. We appealed that decision, and that appeal goes back to the Secretary. We just recently received his decision, I believe January 9th in which he affirmed what he had said before. We will have an appeal filed in the District Court of Sedgwick County within the next week appealing that decision to the District Court, and our council that is going to represent us in that are very confident that we are going to prevail in that case in the District Court, and that we will receive a permit from KDHE.

HERNANDEZ I am reading this article, and maybe you can help me decipher this, but if the State calls this a mistake in issuing you a permit why would it no longer be a mistake?

HILL Current staff persons at KDHE have stated that they made a mistake in 1997 when they issued the original permit. In our opinion, KDHE did not make a mistake in the way that they interpreted the statute in 1997. They are making a mistake now. We are very comfortable that when we get this matter to a District Court, the court is going to agree with us on the proper interpretation of that statute given its legislative history, and we are going to be issued a permit. We are not trying to do anything illegal here. We are exercising our rights to exhaust our appeals. So far we haven't been able to get past the agency. The agency took a position two years ago which was a reversal of what they did in 1997 and 1998, and it has taken us two years to get past the agency level, and now we get a chance to go to an objective evaluator.

HERNANDEZ Are you an attorney, Mr. Hill?

HILL No.

HERNANDEZ So how can you make a determination whether what you are doing is legal or not?

HILL We have a Stay Order that allows us to operate the landfill at this time.

BISHOP As I understand it, part of the agreement with the City is that the land that is owned by the City at the end of landfill time period will be turned into a park?

HILL That was the City's plan.

BISHOP Is there any responsibility on the part of the company for work on that park or creating a park?

HILL What we have agreed to do is try and contour the top layer at the time of closure so that it would be amendable to a park, as opposed to a flat cover on top. We have agreed to work with the Park Department when they can get to a point when they can work on this to try to contour the area into a park.

BISHOP You would be able to do that even if the decision is made that whatever the three levels that you are working with for the landfill not to go forward.

HILL If we stop right now, the contour of the entire tract is going to be remarkably different then what was originally planned with the landfill is completed and filled to capacity. If you know the history of this, it was an old sludge pit, a low lying area that was used by the City for years, and pump sludge by the sewage plant, and they would pump it over there to dry out and that is what it was for a long period of time.

BARFIELD You alluded to the fact that Mr. Lambke recommended a one-year extension, under what conditions was that?

HILL He did not impose any conditions at all. If you read the minutes of the Council meeting, or if you were present for it, he indicated that he didn't have any personal concerns about the landfill, the safety issues, the environmental issues or any of that, but he had some constituents that did not want the extension to go through. So his statement was that he thought it would be appropriate to approve it for a year, and then have the matter come back before the Council again to see where we were. To do

that, we have to come to the Planning Commission and ask for an amendment to the Conditional Use Permit to get it back to the City Council. We can't go directly to the City Council.

BARFIELD I believe his constituents were complaining about the noise, the dust, and the traffic coming from this site. Have you addressed those concerns?

HILL We work continuously on dust and air. I think if you saw the pictures that Mr. Miller put up, I think you can see how clean this site is. There is no dust blowing in the area. As Mr. Lambke pointed out to the City Council, most of the dust that the residences in the area complain of does not come from the landfill. It comes from other operations that area totally unassociated with the landfill. As far as noise and traffic, our landfill being in that location is not the only generator of traffic on K-15. K-15 gets to be busier and busier all the time because of the expansion of Derby, and it is difficult to separate that. There hasn't been any suggestion to us that we needed to modify the operation to address traffic concerns, but the neighborhoods are not on K-15 itself. The traffic is only affected at the intersection at K-15 and 31st Street South. We have not had a single complaint from anybody, and in fact we talked to Mr. Lambke yesterday, and asked him if he had received complaints from his constituents last year, and he told us he had not had a single phone call.

SUNQUIST If the landfill were to close, you are still going to have your other operations there with the grinders?

HILL Yes, the rock crusher operation.

JOHN H. KEMP, 3000 E. Dunham, Wichita, KS 67216 I have been in the neighborhood for about 16 years. I have been fighting this problem for 16 years, first the rock crusher and then the landfill. The dirt and debris that we get in our neighborhood are nothing like the dust that we get from the rock crusher it is different dust. The dust we get from the landfill is dust from the top of the berm. The trash that we get in our neighborhood is trash from that landfill. It was a beautiful neighborhood and I have watch my property deteriorate because of traffic up and down K-15 and up and down Dunham and up and down 31st Street to the point where I had to pay for my house raised and my front point redone. I am from the old school and we used to be able to hang our clothes out on the line but my wife dares to do that today. Most of the elderly people that have died in our neighborhood I would say that 60% of them died with an oxygen tank. Now in that neighborhood because of the dust and dirt we have a younger generation a little boy that is 6 years old and his doctor has put him on an oxygen tank. Something is going on in that neighborhood that wasn't in that neighborhood 16 years ago or even 6 years ago. We need to look into that. As far as the park how are you going to put a park when you have the railroad on one side and the river on the other?

JEAN E. WIKLE, 3330 Crystal Drive, Wichita, KS 67216 I am a representative for five additions within the K-15 Neighborhood Association. I have lived in this area since Oct. 1966. I feel that landfills in general should not be within the city limits because the dust from the truck traffic, trash, etc., that goes along with landfills effects the lives of many people. People are more important than any kind of a business if it causes physical harm such as lungs that cannot be healed like other part of the body. I have brought the attached Wichita Eagle article and I want you to vote against this landfill extension.

I would like to say the Mr. Lambke did not recognize the vote that was on the floor to deny the landfill, there was a seconded and Mr. Lambke would not allow a vote at the DAB meeting at that time. Mr. Lambke went to the City Council and told them that the DAB voted for the renewal but that is not what happened.

BETTY HOPKINS, 1120 Woodrow, Wichita, KS 67203 I did not receive the first notice for public hearing. I was given these figures there will be 40 tons a day multiple by 15 that makes 600 tons a day of concrete and debris and they will be doing it 6 days a week which comes to 3600 tons and they will be doing it for 50 weeks so that comes to 180,000 tons per year. While Mr. Cornejo makes money our property values go down. Concrete dust is different then dust that comes from dirt. I would like you to deny this application.

CHARLES BENJAMIN, P O BOX 1642, Lawrence, KS 66044-8642 Attorney representing K-15 Neighborhood Association. I myself help create a C & D Landfill when I was a Harvey County Commissioner for 16 years. When properly run, C & D landfills can be a great benefit to society by keeping things out of municipal solid waste landfills. The issue here is two fold. First of all for the K-15 Neighborhood Association, it is clear from the testimony that you have been given from people have had lived there for a long time that things changed when that landfill went in. That the nuisance factors of odor, dust, traffic, etc. increased after the landfill went in.

The Sierra Club is concerned about this for a variety of reasons. The Arkansas River along with the Kansas and Missouri Rivers are one of only three navigable rivers recognized in State Law, and they have been upheld by Kansas Supreme Court, that is important because these rivers are public access rivers. The rest of the State's rivers are operated under different law.

KDHE has admitted that they have made a mistake. The permit was up for review in 2003, and Cornejo applied for a renewal of the permit, and the KDHE Secretary denied a renewal of the permit, and put a stay on the order until the company had a chance to apply for it administratively. At that point, both the Sierra Club and K-15 Neighborhood Association intervened and were allowed intervention by an Administrative Law Judge. Since that time, the KDHE Secretary has reviewed the case and reviewed the briefs by the KDHE Attorney, myself on behalf of the K-15 Neighborhood Association, and the brief by Cornejo.

This is the conclusion of law. That KSA 65-3407 (L) (1) provides that "No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this Act in such areas located within 1/2 mile of a navigable stream used for interstate commerce or within 1 mile of an intact point for any public water supply system." The effect date of this provision was May 16, 1991.

Dale Miller stated that this was a policy of KDHE, it is not a policy; it is State Law. On the conclusion of law from the KDHE Secretary, Kansas Courts have long recognized the Arkansas River as a navigable stream as a matter of law. The purpose of KSA 65-3407 (L) (1) is to protect the health and welfare of the citizens of Kansas, and it should be interpreted broadly to achieve that goal. The Arkansas River is a navigable stream used for interstate commerce as that term is used in KSA 65-3407 (L) (1). The solid waste disposable permit granted to Cornejo granted in 1999 was granted in error. Cornejo's request for permit modification

must be denied because its solid waste disposable facility is located within 1/2 mile of a navigable stream of interstate commerce. Furthermore, the KDHE Secretary has ordered that Cornejo shall cease operation at the facility no later than 30 days after service of this order. There was no Stay put on this order.

In my view, for the City of Wichita to issue a zoning permit for this purpose would be unlawful. We are asking you today to stop this landfill from operation, and to stop this nuisance.

BARFIELD The order that you referred to, what day was that issued?

BENJAMIN This was issued January 9, 2004, from KDHE Secretary.

BARFIELD You said that order said that they had to cease operation within 30 days. However their permit allows them to operate until April.

BENJAMIN I am reading you from the order from the KDHE Secretary.

MARK LADD, 2818 E. 31st Street South, Wichita, KS 67216 My family owns a commercial property on 31st at K-15. We sell boats and motorcycles, and these items are displayed outside. The dust generated is accumulating on the displayed motorcycles and boats to the extent that they have to employ additional man-hours and cost to keep products clean. The customers that flow through the business suffer somewhat because of the dust on the products. K-15 and 31st Street is a large traffic accident area, and busy intersection. It is an awkward intersection. I understand that we need this kind of facility, but it is affecting the overall neighborhood, and the businesses in this area. The overall image is suffering, and I agree with the staff recommendation of the denial.

HENTZEN How long have you been in business there on that corner?

LADD Since, 1959.

LARRY ROSS, 346 N. Bluff, Wichita, KS I was a Planning Commissioner from 1993-1997, and I see several Commissioners that are familiar to me. I participated in the original request. The decision in 1997 was a mistake then, and it is a mistake now. You have the opportunity to correct this mistake, and put an end to this project. The applicant would have you believe that this is a routine approval, but this is not, and it is time to put an end to this application.

LOIS KUHN, 6140 S. Tiger, Derby, KS 67037 I own a property at 3220 Butler, near the Cornejo and Sons landfill. As a homeowner I do anticipate depression of values of homes in the area, and along with this will come decrease in taxes paid by homeowners as they devalue should the landfill continue to grow as it has recently. There is the possibility of the contamination of the Arkansas River. I know that our City does have concern for this as evidenced in their campaign for Arkansas River water quality. Should legal suits develop due to the residence in this area developing health issues caused by this dust, who would that fall on, the City or the taxpayers to help pickup that tab for it. The landfill is also located near a main thoroughfare for those passing through our City to view, and it is common sense that an operation of this nature next to a main thoroughfare causes a traffic hazard.

CHUCK HILL I would like to address Mr. Benjamin's statement. I am not sure whether the KDHE Secretary is an attorney either, that wrote this order. This is a matter that needs to be resolved in the courts because there is a difference between the way this Statue is written, and the way a navigable river is defined, and that is a subject for judges to decide.

Secondly, there have been some comments made about asbestos. As I am sure most of you know, we cannot take asbestos products in a C & D landfill. We do not take asbestos items at that location. We don't put concrete and rock in the landfill. We recycle the concrete and rock through the crusher. We hear a lot of talk about the concerns for the river, we have monitoring wells at that landfill, and there has never been a single finding of anything going into the river. KDHE has never even alleged that we have caused any environmental problem in the 4-5 years that we have been at that location. The Planning Commission should do what they have done in the past. This is land use issue, and it is an appropriate location, and the Conditional Use permit is always going to be subject to having a state permit, and that issue will be resolved in an appropriate quorum.

BARFIELD Mr. Ladd, you eluded to the dust that your business sustains from this. Have you seen in the past year a decrease in the amount of the dust from this operation?

LADD Absolutely not a decrease.

BISHOP I have been contacted about this case several days ago.

HENTZEN Are there any other C & D landfills in this south part of the county?

MILLER Not that I am aware of.

HENTZEN In other words, any C & D landfill debris need to be taken up to Northwest Street?

MILLER Yes at West and K-96.

HENTZEN So, if this C & D landfill is closed everybody going to it will have to go up there?

MILLER That would be my opinion, it would have to go there or a regular landfill.

BARFIELD Since this has to come back to us, will this application be going back to the D.A.B?

MILLER This will be going to the D.A.B. on February 4th.

BARFIELD If we approve this application, then it will go to the City Council?

MILLER I assume that this case will go forward to City Council in the sense that there are protestors here that will file a written protest petition, then it would go to the Governing Body. Conditional Uses do not go on if there is no protest. Now the Council could request that if there is not a protest from the neighbors they could put it on their agenda, and have it go forward as well.

BARFIELD In my understanding the City Council approved it on the one-year basis to review it after that one year.

MILLER What they did was approve a one-year extension, and the one-year extension is about to expire, and so the applicant has filed another amendment to that original Conditional Use to extend the time on.

BARFIELD But it won't go to the City Council if we approve it unless protested? I thought Council member Lambke voted to approve it for one-year, and then they would review it after that one-year to see if there was any changes?

MILLER That is not my understanding of what the Council did.

JOHNSON Basically all we are looking out today is the landfill. The crusher can stay there where it is at?

MILLER The crusher is a separate operation, and different from the landfill application.

JOHNSON So the traffic and the concrete and that will stay there no matter what we do?

MILLER It would not be affected by this request.

HERNANDEZ The Planning Commission is certainly different from the City Council, and made comments about Mr. Lambke, and I can understand why an elected official might want to be swayed, but nobody gives us campaign contributions and this is not an elected body. After what I have heard here today, I think it would be criminal for us to perpetuate a mistake that was made.

MOTION: To deny the request for an extension of the Conditional Use permit.

BISHOP moved, **HERNANDEZ** seconded the motion.

HENTZEN We have not heard anything new from what we heard a year ago, and really let's tie this to what KDHE says or does. Now I believe the applicant has a right to get it solved with KDHE, and we have no new information from what we had a year ago.

SUBSTITUTE MOTION: To approve the extension for the Conditional Use and tie it to the KDHE final decision where the applicant has the right to go to the courtroom and say what do I have to do.

HENTZEN moved, **MCKAY** seconded the motion.

BARFIELD I would have to disagree with Commissioner Hentzen, we do have new information. A year ago we had not heard from KDHE, and since then we have heard from them, and they have said they would not renew this permit. I voted against this request a year ago, and I will vote against it again today.

BISHOP I think it was bad land use a year ago, and it is a bad land use choice today.

MILLER I need a clarification. When the motion maker said tie it to whatever KDHE approves, so you are not making a recommendation as a group on the time limit. If KDHE gives a 50 year lifespan or a 0 lifespan, it is whatever they say as opposed to a specific time recommended by this commission?

HERNANDEZ That is a good point this could go on indefinitely. The people behind this have a lot of money and can tie it up in court for a long time, and I think that is absurd.

VOTE ON SUBSTITUTE MOTION: (4-4) (**SUNQUIST, MCKAY, HENTZEN, JOHNSON** In favor). Motion fails.

VOTE ON ORIGINAL MOTION: (4-4) (**BARFIELD, COULTER, BISHOP, HERNANDEZ** in favor) to deny request.

MILLER It becomes a denial for the application because there is a failure to make a recommendation either way.

JOE LANG The matter stops at this point as a denial unless the applicant appeals it to the City Council or unless the City Council asks that the application come forward.

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4. **Case No.: ZON2003-73** – The City of Wichita (owner), Faissal Aboufaissal (contract purchaser); Greg Ferris (agent) Request Zone change from "B" Multi-family Residential to "LC" Limited Commercial on property described as;

Beg 30 Ft E And 40 Ft N SW Cor SE 1/4 Se 1/4 N 140 Ft E 100 Ft S 140 Ft W To Beg Sec 12-27-1W. Generally Located At The Northeast Corner Of 13th Street North And St. Paul.

BACKGROUND: The site is owned by the City of Wichita, is developed with a fire station that has been closed, and is zoned "B" Multi-family Residential. The City of Wichita has designated the site as surplus property, and is offering the property for sale. The applicant is the contract purchaser, and is seeking "LC" Limited Commercial for the site and it's 3,192 square foot building. At the time this report was prepared, no specific user is under contract to occupy the site.

Surrounding properties are zoned "LC" Limited Commercial and "B" Multi-family Residential, and are developed with apartments, vacant service station, medical offices, automobile services and law offices.

As it is currently developed, the site does not conform with several UZC and Landscape Ordinance requirements for commercial development. The site does not meet the screening and landscape buffer requirements along the east property line that are required because the property to the east is zoned "B" Multi-family Residential. The site may not conform with current parking requirements, which require approximately 10-13 parking spaces depending upon the use of the property. The UZC requires that the non-conformities on the subject property be brought into conformance when the following occurs: 1) any increase on the premises of more than 30 percent floor area or 50 percent value; or 2) any change in use to a more intensive use when a new certificate of occupancy is required.

CASE HISTORY: This site is unplatted. BZA 6-96 granted a reduction of the east side yard from five feet to two feet to allow for an addition to the fire station.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Apartments
SOUTH:	"LC"	Service station
EAST:	"B"	Apartments
WEST:	"LC"	Vehicle repair

PUBLIC SERVICES: All services are available. 13th Street is a four-lane arterial. St. Paul is a collector street. The intersection of St. Paul and 13th Street is signalized. The site has access drives on both streets.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. Commercial location guidelines indicate the stripping out of commercial zoning along arterial streets is undesirable; however, the development pattern for this segment of 13th Street has been established too long to affect this request.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding properties are zoned "LC" Limited Commercial and "B" Multi-family Residential, and are developed with apartments, vacant service station, medical offices, automobile services and law offices. 13th Street, at this location, is a commercial corridor that has experienced some market changes that have resulted in hard times for some of the businesses, but is still a reasonably stable area that could be further supported by the re-use of the application area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "B" Multi-family Residential. The "B" district permits a reasonably lengthy list of permitted uses including a variety residential uses and medical services. The site could probably be adapted to uses currently allowed; however, the unique configuration of the fire station interior limits the practical opportunities.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Properties adjacent to the site are developed with multi-story apartment buildings, and they are designed so the backs of these buildings face the application area. Changing the zoning on the application area should have a minimal detrimental affect.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The site will probably sit vacant until another buyer can be found, and the applicant and the city will miss an opportunity to put the building to economic use.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" map depicts this site as appropriate for commercial uses. Commercial location guidelines indicate the stripping out of commercial zoning along arterial streets undesirable; however, the development pattern for this segment of 13th Street has been established too long to affect this request.
6. Impact of the proposed development on community facilities: All services are in place, and any increased demand on community facilities can be handled by current infrastructure.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (8-0).

5a. **Case No.: ZON2003-70 (Associated with CON2003-53)** – Mark Ysidro (owner/applicant); Ferris Consulting c/o Greg Ferris (agent) Request Zone change from “SF-5” Single-family Residential to Limited Industrial on property described as;
and

5b. **Case No.: CON2003-53 (Associated with ZON2003-70)** - Mark Ysidro (owner/applicant); Ferris Consulting c/o Greg Ferris (agent) Request Conditional Use for a wrecking/salvage yard on property described as;

Commencing at the Northwest corner of Government Lot 10, as established by District Court Case No. 19897 in the Southwest Quarter of Section 9, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence S 0 degrees 00'00" W along the west line of said Southwest Quarter, 888.30 feet; thence N 89 degrees 21'23" E parallel with the North line of said Government Lot 10, 198.30 feet; thence N 0 degrees 00' E parallel with the West line of said Southwest Quarter, 35.00 feet; thence N 89 degrees 21'23" E parallel with the North line of said Government Lots 10, 119.85 feet to the point of beginning; thence continuing N 89 degrees 21'23" E, 1019.92 feet to the West line of the Riverside Levee as described in County District Court Case A48670; thence Southerly along said West line of Riverside Levee, said line being along a 4 degree 49.88' curve described by the following bearings and distances; thence S 0 degrees 50'01" W, 10.34 feet; thence S 0 degrees 51'00" E, 98.98 feet; thence S 15 degrees 21'00" E, 99.98 feet; thence S 19 degrees 48'00" E, 84.40 feet; thence S 21 degrees 51'00" E, 21.20 feet to the North line of Aukerman Tract as described in Deed Record 362, Page 185; thence N 88 degrees 32'02" W along the North line of said Aukerman Tract, 1145.25 feet; thence N 1 degree 00'54" W, 228.69 feet; thence N 89 degrees 21'23" E, 32.45 feet; thence N 1 degree 02'51" E, 235.09 feet to point of beginning. Generally located on the eastside of Broadway north of MacArthur.

BACKGROUND: The applicant is requesting a zone change from “GC” General Commercial and “SF-5” Single Family to “LI” Limited Industrial and a conditional use to permit a wrecking/salvage yard on a 12.63 acre unplatted tract located north of MacArthur and east of Broadway at 3760 S. Broadway. The subject property is currently developed with a non-conforming vehicle/wrecking salvage yard (Happy Hooker Towing Service). The applicant has requested the zone change and conditional use so that the existing use will conform with the zoning regulations.

The surrounding area is characterized by heavy commercial uses, which are primarily auto-related, such as vehicle sales and vehicle repair, and typically involve outdoor storage. Many of the existing uses in the vicinity do not conform to the zoning regulations since only the frontage along Broadway is zoned for commercial uses, but the uses extend to the back of the deep lots, which are zoned for residential use. The surrounding properties are zoned “GC” General Commercial and “SF-5” Single Family.

The applicant submitted the attached site plan illustrating the proposed use of the subject property as a vehicle wrecking/salvage yard. Essentially the entire lot is used for the outdoor storage of vehicles for Happy Hooker Towing Service. The vehicles stored on the property are both operable and inoperable. The applicant indicates the vehicles are not currently salvaged on the property, but the applicant would like the flexibility to operate a salvage yard in the future.

CASE HISTORY: The subject property is unplatted. The applicant has submitted a plat (Ysidro Addition) for the property that will be considered by the planning commission at the same hearing as the zone change and conditional use request.

ADJACENT ZONING AND LAND USE:

NORTH:	“GC” & “SF-5” Manufacturing, single-family
SOUTH:	“GC” & “SF-5” Single-family
EAST:	Right of way Arkansas River
WEST:	“GC” Vehicle sales

PUBLIC SERVICES: The subject property has access to Broadway, a four lane arterial street, through an adjoining property that also is owned by the applicant. Municipal water and sewer services are not needed for the proposed wrecking/salvage yard use.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for “Commercial” development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. If approved with the recommended conditions of approval, the request conforms with the Land Use Guide and Locational Guidelines.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

1. The Conditional Use shall authorize the operation of a vehicle wrecking/salvage yard. In no event shall the storage or bailing of waste, scrap paper, rags or junk (excluding metal) be permitted in conjunction with this use.
2. The subject property shall be entirely enclosed by a metal panel fence that is not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. The metal panel fence shall be a single color and shall be white, gray, tan or similar non-bright color. Access gates are permitted in the screening fence, but all gates shall be constructed of solid metal panels matching the fence and shall remain closed unless in use. No wrecked vehicles or salvage, including vehicle parts or accessories, shall be permitted for screening purposes or located on or attached to the screening fence.
3. The height of wrecked vehicles or salvage, including vehicle parts or accessories, shall not exceed the height of the screening fence and shall not be visible from ground-level view from any public right-of-way or adjoining properties.

4. Salvaged materials are to be piled and stored in an orderly manner such as would be provided by racks or bins. In order to reduce rodent potential, racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. Non-rackable material shall be stored with an exposed perimeter or in a manner specified by the Environmental Health Department to prevent rodent harborage and breeding.
5. The applicant shall maintain at all times an active program for the eradication and control of rodents.
6. Weeds shall be controlled within the salvage area and adjacent to and along the outside perimeter of the screening fence.
7. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the wrecking/salvage yard shall be provided by fire lanes per the direction and approval of the Fire Department.
8. Access to the subject property shall be provided for on-going inspections of the site for soil and groundwater contaminants by the Environmental Health Department and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells on the property to monitor the quality of groundwater and shall pay the cost of an annual groundwater test for contaminants as designated by the Environmental Health Department.
9. Notification shall be given to the Environmental Health Department of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with the Environmental Health Department. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Health Department.
10. The applicant shall implement a drainage plan approved through the platting process that minimizes non-point source contamination of surface and ground water.
11. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by heavy commercial uses, which are primarily auto-related, such as vehicle sales and vehicle repair, and typically involve outdoor storage. Many of the existing uses in the vicinity do not conform to the zoning regulations since only the frontage along Broadway is zoned for commercial uses, but the uses extend to the back of the deep lots, which are zoned for residential use. The proposed wrecking/salvage yard is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: A wrecking/salvage yard may be permitted with a Conditional Use in the requested "LI" Limited Industrial zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include screening the wrecking/salvage operation from nearby commercial and residential uses.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. If approved with the recommended conditions of approval, the request conforms with the Land Use Guide and Locational Guidelines.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

BARFIELD It is continued be listed in the report as a wrecking and salvage yard and I believe that we were told that this was only going to be primarily for storage and there would not be any dismantling of vehicles. Is that still the case?

KNEBEL The application would permit both wrecking and salvaging of vehicles, but the operation currently is for vehicle storage for a towing company. However, the applicant does want the ability to conduct salvage in the future.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (8-0).

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- 6a. **Case No.: CUP2003-66 DP50#4 (Associated with ZON2003-75)** – HD Development of Maryland, c/o The Home Depot USA Inc. #2204. c/o Kim Biolchini, Store Manager (owner); AM Consulting, Inc., c/o Kim Edgington (agent) Request Amendment to the Carriage House Community Unit Plan on property described as;

and

- 6b. **Case No.: ZON2003-75 (Associated with CUP2003-66 DP50#4)** - HD Development of Maryland, c/o The Home Depot USA Inc. #2204. c/o Kim Biolchini, Store Manager (owner); AM Consulting, Inc., c/o Kim Edgington (agent) Request Zone change from "LC" Limited Commercial to "GC" General Commercial on property described as;

Lot 1, Block 1, Carriage House Plaza 4th Addition. Generally located North of Kellogg and east of Tyler Road.

BACKGROUND: The applicant is requesting to rezone the "LC" Limited Commercial portions of Parcel 3 of DP-50 Carriage House Community Unit Plan to "GC" General Commercial, and to amend General Provision #25 regarding outdoor storage and display. Parcel 3, an 11.07-acre tract, is developed with The Home Depot.

The parcel currently has a narrow 35-foot strip of "LC" zoning along the north property line as a buffer to protect the abutting residential dwellings. Additionally, the developer constructed an eight-foot screening wall and the northern 20 feet of the property was dedeed to the abutting residential landowners as reserves for the placement of buffer landscaping. (Amendment #1, approved June 9, 1998)

The parking lot also is zoned "LC" in order to restrict the amount of outdoor storage on the parcel and limit the extent of outdoor display. Under "LC" requirements, all outdoor display of merchandise for sale must be within ten feet of the building. The property has been in violation of these conditions from time to time. Most recently, shed buildings were placed along the west parcel line extending from the building for about 250 feet, which was significantly more than the allowed distance from the main building. After enforcement action by Office of Central Inspection, the sheds have been moved to the front of the building and are now in compliance with the "LC" screening standards.

The property immediately to the north is zoned "SF-5" Single-family Residential and is part of the Floyd Bailey Second Addition. The "LC" zoning along the north property line was part of the agreed conditions by the developer to protect the neighborhood from the effects of the more intensive use of the parcel by a large home improvement store. The property south of the Home Depot parking lot is zoned "GC" General Commercial but has been developed with the headquarters of a financial institution since the construction of the Home Depot. The rest of the frontage is at-grade with the new Kellogg Freeway under construction. The property to the east is zoned "LC" Limited Commercial and has a large vehicle sales lot that is developed with "LC" type of conditions equivalent to a Conditional Use as part of Amendment #2, approved August 24, 1999. The property to the west is mostly "LC", with the northwest corner rezoned "GC" for an enclosed vehicle compound for an internet-based vehicle sales operation (Amendment #3, approved March 7, 2000). This business is no longer in operation. Today the property to the west is the location of two fast-food businesses and a strip center with a variety of tenants, including a post office substation, some retail, and a large office use. The area to the northwest of Parcel 3 is zoned "MF-29" and has a social service facility and condominium townhouses.

CASE HISTORY: The property is platted as Carriage House Plaza Fourth Addition, recorded August 27, 1998. The original C.U.P. was approved December 2, 1980. (See previous discussion for additional case history.)

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residential
SOUTH: "GC"	Financial institution, Kellogg Freeway
EAST: "LC"	Vehicle sales
WEST: "LC", "GC", "MF-29"	Restaurant, retail, office, condominiums

PUBLIC SERVICES: McCormick is a four-lane arterial that provides access from Tyler to the retail destinations to the east of the Ridge/Kellogg interchange. The proposed amendment and zone change is not anticipated to affect traffic from the site. Normal municipal water and sewer services are available.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses". The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. **Residential Objective II.A.1** seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The current C.U.P. has landscape, screening and buffering requirements on the north property line crafted to comply with these strategies and guidelines. The requested rezoning could be viewed as a weakening of the previous buffer strategy.

The requested zone change of the entire parking lot to "GC" General Commercial allows unlimited outdoor storage materials and display of merchandise except within 150 feet of the property line, as regulated by the Unified Zoning Code. This could result in a land use pattern conflicting with **Objective X.E** to improve the visual appearance of Wichita on major travel corridors and to minimize the impact on surrounding uses. The presence of virtually unrestrained outdoor storage and display would be a negative impact on the surrounding commercial uses that observe higher outdoor storage and display standards.

RECOMMENDATION: The requested amendment eliminates safeguards both to the neighborhood to the north and to the commercial uses and visual corridor along Kellogg. The requested amendment exceeds the needs for display and storage exhibited by past practices when the site was in violation of the current requirements. The requested unlimited use of any of the parking field for storage and display is contrary to approved C.U.P. requirements for similar uses along Kellogg (Wal-Mart) and on Ridge Road (Lowe's).

A suggested substitute amendment and limiting of the rezoning to a 100-foot strip offers a solution to address Home Depot's need for additional merchandise display area, but to keep the outdoor storage closer to the building and away from the Kellogg visual corridor. It would retain the "LC" strip along the north property line, since rezoning of this strip of land would not allow outdoor storage visible from the adjacent residentially zoned property even with rezoning, and the "LC" zoning was the condition originally agreed upon in the original discussions with the neighborhood. Staff recommends the application be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2003-00075) to "GC" General Commercial for a strip of land extending for a distance of 100 feet to the south from the existing southern extent of "GC" zoning on Parcel 3;
- B. APPROVE the Community Unit Plan (DP-50) Amendment #4, subject to the following conditions:
 1. General Provision #25: "For Parcel 3, outdoor storage shall be subject to the limitations and standards for development in the LC districts and any temporary truck/trailer storage permitted under these standards shall be behind screening walls. All open display shall be limited to the limitations and standards for development in LC districts, except that year-round display and seasonal nursery/garden display areas are permitted as indicated on the site plan. Any fencing of these areas must be of wrought iron or similar materials that are approved by the Planning Director. *In addition, outdoor storage/display of rental trucks, and display of trailers, sheds, or other equipment available for sale within the building shall be allowed within 100 feet south of the street wall line of the front of the building. Such display/storage shall not utilize parking required by the Unified Zoning Code, block required fire lanes, and shall be located within a designated area as approved by the Planning Director on a revised C.U.P. drawing.*"
 2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 4. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-50) includes special conditions for development on this property.
 5. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property immediately to the north is zoned "SF-5" Single-family Residential and is part of the Floyd Bailey Second Addition. The "LC" zoning along the north property line was part of the agreed conditions by the developer to protect the neighborhood from the effects of the more intensive use of the parcel by a large home improvement store. The property south of the Home Depot parking lot is zoned "GC" General Commercial but has been developed with the headquarters of a financial institution. The rest of the frontage is at-grade with the new Kellogg Freeway under construction. The property to the east is zoned "LC" Limited Commercial and has a large vehicle sales lot that is developed with "LC" type of conditions equivalent to a Conditional Use as part of Amendment #2, approved August 24, 1999. The property to the west is mostly "LC", with the northwest corner rezoned "GC" for an enclosed vehicle compound for an internet-based vehicle sales operation (Amendment #3, approved March 7, 2000). This business is no longer in operation. Today the property to the west is the location of two fast-food businesses and a strip center with a variety of tenants, including a post office substation, some retail, and a large office use. The area to the northwest of Parcel 3 is zoned "MF-29" and has a social service facility and condominium townhouses.
2. The suitability of the subject property for the uses to which it has been restricted: The property is being used as zoned and according to C.U.P. restrictions today. The shed type buildings are located within ten feet of the front of the building and trailers are located along the wrought-iron fenced nursery/garden center on the west end of the property. It appears that equipment for rent is within a wrought-iron fenced area on the east side of the building.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Total removal of "LC" storage/display restrictions will negatively impact the surrounding properties and degrade the visual corridor if the unlimited outdoor storage/display is allowed to spill out to near the edges of the parking lot.
4. The length of time the subject property has remained vacant as zoned: The property is in current use.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development, which is in conformance with the zoning and uses requested. The requested rezoning and C.U.P. amendment weakens conformance with the commercial, residential, and visual objectives and locational guidelines of the *Comprehensive Plan*. The proposed modification to limiting the rezoning area to 100 feet and limiting the type of display/storage in front of the building would help mitigate these effects.
6. Impact of the proposed development on community facilities: The proposed amendment and zone change is not anticipated to affect traffic from the site.

DONNA GOLTRY Planning staff presented staff report. I have spoken with the agent and she had requested a word change on our language in the phrase where it states the word "equipment". She asked for the substitution of the word "merchandise", if you look on page 4 of the staff report for Condition #1.

MOTION: To approve Item 6a/6b with word substitution in Condition #1.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (8-0).

7. **Case No.: CON2003-52** – Ronald D. Ryan Living Trust c/o Ronald D. Ryan KE Miller Engineering, PA c/o Kirk Miller (agent) Request Conditional Use for vehicle and equipment sales, outdoor, on property zoned "LC" Limited Commercial on property described as;

Lot 1, Clinton Addition to Wichita, Sedgwick County, Kansas, except: Beginning at the Southeast corner of said Lot; thence S 87 degrees 14' W along the South line to the West line of said Lot; thence N 01 degree 28' W, 28.5 feet along said West line; thence S 87 degrees 38' E, 95.3 feet; thence N 87 degrees 16' E to a point on the East line, 19.9 feet north of said Southeast corner; thence S 01 degree 28' E, 19.9 feet along said East line to the place of beginning. Generally located North of Kellogg and east of Ridge Road.

BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on the west 1.05 acres of Lot 1, Clinton Addition. The subject property is located on the north side of Kellogg, along the Kellogg frontage street and is less than a ¼ mile east of the Kellogg – Ridge Road interchange. The subject property is zoned "LC" Limited Commercial. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" zoning district.

The site is currently vacant, with an asphalt parking lot sandwiching the footprint of the razed building that was on the site. The site currently has three driveways onto the Kellogg Avenue frontage road, which directs one-way traffic west to the Kellogg – Ridge Road interchange. The site also has one driveway onto the north-south access easement on its west side. This access easement also provides access for the large retail strip (CUP DP-151) located north of the site and the smaller retail/office building west of the site. There is drainage between the site and the development north of the site.

The site plan the applicant has provided shows the site redeveloped with an approximately 3,744-square foot building with paved parking and display areas. The building has no specific use called out for it. The site plan does not identify parking for employees, customers or parking spaces for the disabled, as required by the code for vehicle sales. The site plan does identify pole lighting along the outside of the site as well as a security fence (type and materials not specified), gates and a landscape buffer located in the Kellogg frontage street right-of-way. The type and size of plants to be used in the landscape buffer are not identified. No landscaping is shown on the other 3 sides of the site or within the site's property lines, including the west street side, which is required. An unspecified sign is shown along the Kellogg frontage street side. No trash receptacle is shown on the site, if one is located on the site it must have solid screening around it. The site plan shows two of the three existing driveways onto the Kellogg frontage street closed. Any variance from Article III, Section III-D, 6.x of the UZC would require a waiver approved by the WCC. Any variance from the landscaping ordinance would require a waiver by the Planning Director.

Properties east of the site are zoned "LC" and are developed as a stand alone, single story office for a title company and a small strip building housing an insurance office, a financial advisory office, a travel agency and other office uses. These buildings were built in 1970 & 1975. The property west of the site is zoned "GC" General Commercial and developed with one building housing a party supplies store, a cell phone seller and a beauty/barber shop. The building was built in 1996. Properties north of the site are zoned "GC" with a CUP (DP-151) overlay and are developed as a large retail strip housing national and regional retail stores including, Best Buy, Office Max, Kohl's Michaels, TJ Max and other retail. The buildings in the strip were built in 1993, 1995 & 1996. Properties south of the site and across Kellogg are zoned "GC" with CUP (DP-27) over one "GC" site and an "LI" Limited Industrial site. These properties are developed as motels, restaurants and a car rental agency.

There are at least 13 existing car sales lot along this 4 mile stretch of Kellogg between the IH-235 Loop and 119th Street West; the site is located within this 4 mile stretch of Kellogg. The car sales lots are a mix of smaller independent dealerships and the larger franchised dealerships. An existing (Donavon) car sales lot is approximately ½ mile east of the proposed site.

CASE HISTORY: The Clinton Addition was recorded with the Register of Deeds December 16, 1968.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"	Large general retail strips
SOUTH:	"GC"	Motels, restaurants, retail
EAST:	"LC"	Small office
WEST:	"LC"	Office, retail, personal service

PUBLIC SERVICES: This subject property has three driveways onto the Kellogg Avenue frontage road, which directs one-way traffic west to the Kellogg – Ridge Road interchange, less than a ¼ mile from the site. Kellogg is a six-lane free way with current traffic volumes of approximately 65,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Kellogg will be approximately 99,000 vehicles per day. This section of Kellogg is not projected as a part of a CIP, with this section of Kellogg being improved in 1996. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-

related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The proposed site meets all the locational criteria for a car sales lot.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. All requirements of Article III, Section III.D.6.x. of the Unified Zoning Code shall be met.
2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.
3. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
4. The two existing drives onto the Kellogg frontage street from site (Lot 1, Clinton Addition) closest to the intersection on the southwest corner of the site shall be closed, and the applicant shall provide a guarantee for closure of these drives in a form suitable to the City Engineer within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable, per the approval of the City Traffic Engineer.
5. The applicant shall dedicate by separate instrument complete access control except for one opening along the property's Kellogg frontage street and one opening onto the street/access easement on the site's west within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.
6. Parking spaces for employees and customers shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.
7. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. A revised landscape plan shall be submitted showing a landscaped street yards and required landscaping, which shall be provided and maintained on the property as approved by the Planning Director within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.
10. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.
11. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. No sale of cars or trucks shall be allowed on the site until all conditions have been met.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of various commercial uses including car sales, national and regional retail and local retail and office. Most of the property along Kellogg is zoned "LC" Limited Commercial or "GC" General Commercial with or without CUP overlays and "LI" Limited Industrial. The proposed used car lot is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for commercial uses to which it has been restricted; however, used car sales is an established use in the area and can be suitable for the subject property if developed according to the recommended conditions of approval.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended conditions of approval which would limit signage, lighting, noise, and display area practices from adversely impacting nearby property.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial

Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This site is located along Kellogg, and the recommended conditions of approval have provisions, which limit noise, lighting, and other adverse impacts. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. This site is located along Kellogg in an area where auto-related commercial uses already exist.

5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities if the recommended access controls are provided along Kellogg. Not providing the recommended access controls will hinder the City's ability to provide a roadway that is of sufficient capacity to safely carry future traffic volumes.

BILL LONGNECKER Planning Staff presented staff report. Staff has received a letter protesting any zone change to this property. The individual who sent the protest owns these three lots (shows on screen), which are east of the site, and have an address of 6730 West Kellogg. These lots have a small office/retail strip on part of them with the eastern portion vacant. The vacant portion is zoned "GC", which would allow a car lot to go on it. The rest of the property is zoned "LC". The applicant has agreed to Staff's conditions for the proposed car sales lot.

HENTZEN Bill, there is no zoning change request for this site, what we have is a Conditional Use request, correct?

LONGNECKER That is correct. The current zoning of "LC" will remain in place, with the conditional use overlay on it.

HENTZEN Thank you. That's what I thought. I just wanted to make it clear.

COULTER Any other questions for staff? Ok, may we hear from the applicant?

KIRK MILLER I am the agent for the applicant and we agree with the Staff's recommendation.

COULTER Thank you. Is there anyone else that would like to comment on this request? Seeing no one, the public hearing is closed. Is there a motion for this request?

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **JOHNSON** seconded the motion, and it carried (8-0).

8. **Case No.: CON2003-46** – Steven C. & Cheryl A. Lee and Joe H. & Frieda E. Lee Trusts (owners); Zach Woods (contract purchaser); Baughman Company c/o Terry Smythe (agent) Request Conditional Use for a Car Wash and Self-service Storage Warehouse, on property zoned "GO" General Office and "LC" Limited Commercial on property described as;

Lots 2 and 3, Block 1, Leewood Heights 3rd Addition, Sedgwick County, Kansas. Generally located Northeast corner of 53rd Street North and Meridian.

BACKGROUND: The applicant is requesting a Conditional Use to permit a car wash and self-service storage warehouses on a 2.09 acre platted tract located north of 53rd Street North and east of Meridian. The subject property is zoned "LC" Limited Commercial and "GO" General Office, and the proposed uses may be permitted by a Conditional Use.

The surrounding area is characterized primarily by residential development on the edge of the urbanized area. With the exception of the properties immediately at the corner of 53rd Street North and Meridian, all of the properties in the vicinity are zoned for single-family residential development and are predominately developed with residential uses. The properties to the west are predominately undeveloped. Two undeveloped residential lots are located immediately east of the subject property. The properties immediately at the corner of 53rd Street North and Meridian are zoned "LC" Limited Commercial and are mostly undeveloped but do contain a convenience store, which is located immediately south of the subject property.

The applicant submitted the attached site plan illustrating the proposed use of the subject property as a car wash and mini-storage facility. The proposed car wash would contain three self-serve bays and an automatic bay. The automatic bay is proposed to have a dryer. The applicant submitted the attached information regarding the noise to be emitted by the proposed dryer. The mini-storage facility is proposed to have five 3,000 square-foot storage buildings and one 3,600 square-foot storage building. The proposed site plan does not conform with several requirements of the Unified Zoning Code (UZC) and Landscape Ordinance.

Section III-D.6.y(17) of the UZC requires a resident manager for mini-storage facilities on property zoned "LC" or "GO"; however, the applicant proposes that no resident manager be provided. Since the UZC requirement for a resident manager is a Supplementary Use Regulation, the requirement can be waived by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff recommends waiving the resident manager requirement due to the limited size of the mini-storage facility.

Section III-E.2.e. of the UZC does not permit the proposed vacuum/trash receptacles to be located within the required setback. The subject property has a 40-foot platted setback, which is 20 feet greater than required by the "LC" zoning district. Therefore, the applicant proposes to vacate the platting setback so that the vacuum/trash receptacles will not be located within the required setback. Planning staff will recommend approval of vacating the platted setback at the time such application is submitted.

Section III-D.6.y(5) of the UZC requires a 5,325 square-foot landscaped street yard along Meridian for the mini-storage facility and Section 10.32.030 of the Landscape Ordinance requires a 1,450 square-foot landscaped street yard along Meridian for the car wash. As proposed, only a 1,006 square-foot landscaped street yard will be provided for the car wash, which is 444 square feet less than required. However, the applicant proposes a 5,950 square-foot landscaped street yard for the mini-storage facility, which is 625 square feet more than required. In order to provide less landscaped street yard than required for the car wash facility, a modification of the landscaping requirements will need to be approved by the planning director and zoning administrator. Since the overall landscaping provided exceeds the amount required, planning staff recommends that the modification landscaping requirements be approved as long as the required 14 shade trees (or the equivalent) are provided.

Section IV.B.3.a. of the UZC requires solid screening along all property lines where adjoining residential zoning. The applicant proposes a wrought iron security fence for a portion of the north property line; however, since the property to the north is zoned "SF-5", the fence along this portion of the property line is required to be a solid screening fence. Also, the applicant proposes to use adjoining property owners' fence along the east property line to meet the screening requirements; however, at least a portion of the adjoining property owners' fence does not meet the screening requirements since the wood slats are too far apart to meet the solid screening fence requirements of the UZC.

Section III-D.6.y(5) of the UZC requires the planning director to review the architectural design of the mini-storage facility and make a recommendation to the planning commission as to whether or not the architecture is compatible with surrounding development. Planning staff finds the proposed "industrial style" storage units with low, almost flat metal roofs (see attached "Proposed Storage Units") to be incompatible with the architecture of the surrounding residential uses. Therefore, planning staff recommends that the architecture of the storage units include hipped or gabled roofs with roofing materials consistent with residential construction such as asphalt, wood, or tile. Planning staff also recommends that the siding of the storage units be consistent with residential construction such as stucco, brick, or wood (see attached "Recommended Storage Units"). The proposed "Dryvit" siding would meet this recommended requirement. Additionally, the proposed architecture of the car wash also is more of an industrial style that planning staff finds incompatible with surrounding residential uses. Therefore, planning recommends that the car wash also have a hipped or gabled roof with roofing materials consistent with residential construction such as asphalt, wood, or tile (see attached "Proposed Car Wash" and "Recommended Car Wash").

CASE HISTORY: The subject property was originally platted as part of the Anderson Acres Addition, a residential subdivision recorded on August 27, 1951. The subject property was rezoned (SCZ-0406) to "LC" Light Commercial and "BB" Office (now "GO") and replatted as part of Leewood Heights 3^d Addition on August 14, 1979. A request (ZON2000-00002) for "GC" General Commercial zoning to permit a body shop on the subject property was denied on May 9, 2000.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family
SOUTH:	"LC"	Convenience Store
EAST:	"SF-5"	Single-family; undeveloped
WEST:	"SF-20" & "LC"	Undeveloped

PUBLIC SERVICES: The subject property has access to Meridian, a four lane arterial street with current traffic volumes of approximately 8,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Meridian will increase to approximately 12,000 vehicles per day and recommends that Meridian remain a four lane arterial street. The proposed single point of access with cross lot access between the car wash and mini-storage facility complies with the Access Management Regulations. The site circulation plan has been approved by the Traffic Engineer. Municipal water but not municipal sewer is available to serve the subject property. The applicant proposes to use a water reclamation system for the car wash as described in the attached letter and brochure. The Environmental Health Department indicates that the water reclamation system is acceptable but indicates that wastewater from the car wash cannot be discharged into a septic system or used for irrigation.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. If approved with the recommended conditions of approval, the request conforms with the Land Use Guide and Locational Guidelines.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The subject property shall comply with the requirements of Section III-D.6.f. of the Unified Zoning Code (see attached).
2. The subject property shall comply with the requirements of Section III-D.6.y. of the Unified Zoning Code (see attached), except that compliance with Section III-D.6.y.(17) pertaining to a resident manager shall not be required.
3. A vacation application shall be submitted within 60-days of approval of the Conditional Use by the City Council, and approval of a vacation of the 40-foot building setback along Meridian for the south 145 feet of the subject property shall be received prior to issuance of any building permits.
4. A lot split application shall be submitted within 60-days of approval of the Conditional Use by the City Council, and approval of a lot split creating separate parcels for the car wash and self-service storage warehouse portions of the subject property shall be received prior to the issuance of any building permits. The lot split shall establish a cross-lot access agreement between the parcels and access control along Meridian except for one shared opening.
5. The site shall be developed in general conformance with a landscape plan approved by the Planning Director prior to the issuance of any building permits. The landscape plan shall comply with the requirements of the Landscape Ordinance

and Section III-D.6.y.(4) of the Unified Zoning Code except as otherwise required by this condition. A minimum 6,775 square-foot landscaped street yard and 14 shade trees (or the equivalent) shall be provided along Meridian, which may be divided between the car wash and self-service storage warehouse in a manner that provides up to 450 square feet less landscaped street yard than required by the Landscaped Ordinance for the car wash as long as a like amount of additional landscaped street yard is provided for the self-service storage warehouse. A 25-foot deep landscape buffer shall be provided along the entire length of the north property line and for the north 50 feet of the east property line. A 10-foot deep landscape buffer shall be provided along the south 145 feet of the east property line.

6. A 6-8 foot high solid screening fence meeting the requirements of Section IV-B.3.e. of the Unified Zoning Code shall be provided along the entire length of the north and east property lines of the subject property.
7. The architectural design of all buildings shall be approved by the Planning Director prior to the issuance of any building permits. The architectural design of the car wash and self-service storage warehouse buildings shall contain hipped or gabled roofs with roofing materials consistent with residential construction such as asphalt, wood, or tile. The siding materials for the self-service storage warehouse buildings shall be consistent with residential construction such as stucco, brick, or wood. "Dryvit" or similar siding materials shall be permitted.
8. Unless connected to a municipal sewer system, the car wash shall utilize a VERwater Environmental Water Reclaim System or similar system approved by the Director of Environmental Health. No wastewater from the car wash shall be discharged into a septic system or other on-site sewage disposal system nor shall any wastewater from the car wash be used for irrigation.
9. Ground-mounted signage for the self-service storage warehouse shall be limited to 32 square feet in area and 20 feet in height. No ground-mounted signage shall be permitted for the car wash.
10. A revised site plan addressing the conditions of approval shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the City Council. The subject property shall be developed in general conformance with the approved site plan, and no building permits shall be issued prior to the approval of the site plan.
11. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties at the corner of 53rd Street North and Meridian are zoned for and/or developed with commercial uses. Given its location near the corner of 53rd Street North and Meridian, the proposed car wash and self-service storage warehouse are consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial and "GO" General Office. The proposed car wash and self-service storage warehouse may be permitted by a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include regulations on architectural design, building setbacks, signage, wastewater disposal, screening, and landscaping.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. If approved with the recommended conditions of approval, the request conforms with the Land Use Guide and Locational Guidelines.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated if approved with the recommended conditions of approval, which include regulations pertaining to vehicular access and circulation.

Tape malfunction no record taken.

MOTION: To approve, subject to staff comments and citing the findings in their report, with the following modification to Condition #7: Prior to consideration of the request by the City Council, the architectural design of all buildings shall be approved by the Planning Director. The architectural design of the car wash and self-service storage warehouse buildings shall be consistent and shall be compatible with surrounding residential development.

JOHNSON moved, **SUNQUIST** seconded the motion, and it carried (8-0).

9. **Case No.: CON2003-55** – Joanne & Steven Kennedy Request Sedgwick County Conditional use to allow an accessory apartment on property zoned "RR" Rural Residential on property described as;

Beg SW Cor W 1/2 Se 1/4 E 160 Ft N 605.5 Ft W 160 Ft S To Beg Exc N 300 Ft And Exc S 40 Ft For Rd Sec 30-28-2e.
Generally Located At The Northwest Corner Of 53rd Street South And Nancy Street (6361 Nancy) Derby, Ks.

BACKGROUND: The applicant is requesting a "Conditional Use" to allow an accessory apartment on an approximately 0.95-acre unplatted tract located approximately ½ mile west of the of the Rock Road – 63rd Street South intersection, on the north side of 63rd Street South, 6361 Nancy. The property is zoned "RR" Rural Residential. The applicant is currently building a 1,500-square foot building containing a double garage and the proposed accessory apartment. The accessory apartment will be 600-square feet in size with one bedroom, a kitchen, an office, a bathroom and a living room. The building is detached from the applicant's home (approximately 1,750 square-feet) and will allow the applicants (parents) to assist their adult daughter, who has a disability. Since the building will contain kitchen and sleeping quarters, it is classified as dwelling unit and thus requires "Conditional Use" approval for an accessory apartment. The site is in Sedgwick County, but within the City of Derby's area of zoning influence and thus will be considered by the City of Derby's Planning Commission.

The site plan submitted by the applicant shows the apartment/garage sitting behind the primary residence on the north end of the property. A mature tree line (non-evergreens) will separate the accessory apartment from the residences located west of the site. Scattered mature trees, including some evergreens, provide some buffering for the residence north of the site. The south and east side of the site offer either no or minimal screening/buffering of the proposed accessory apartment. The site's primary residence is a one-story brick structure, built in the late 1960s, with one small shed, and access onto 63rd Street South and Nancy Lane. The applicant's partially completed wood, stick frame building will have a synthetic siding on the exterior wall. One double window is shown on the north, east and west sides of the proposed accessory apartment. A separate entrance into the proposed accessory apartment is shown on its east side, onto an existing concrete porch. The site plan does not show setbacks or easements. If the building is encroaching into the setbacks for the "RR" zoning district, the applicant will have to apply to the MAPD for a variance to allow the encroachment. The building appears to be within the maximum height allowed for the zoning district.

The site sits next to a small subdivision and some unplatted tracts. This subdivision (Town & Country Estates) and the unplatted tracts have single-family residences on them. The lots/tracts are ½ -acre or more in size and the residences were built in the late 1950s through the 1960's and up to the mid 1970s. The land is rural in character north of this area. South of the site, across 63rd Street South, and approximately 330-feet west of the site is the Derby city limits. These two areas, south and west of the site, are currently being developed as urban scale single-family residential subdivisions, a golf course and multi-family residential.

As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood;
- (c) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium; and
- (d) the water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling.

The Derby Zoning Code permits this type of accessory use, per the standards stated in their Code.

CASE HISTORY: The property is unplatted. The Derby Planning Commission considered this Conditional Use request at their January 15, 2004 meeting and recommended approval (9-0) subject to Staff 's recommended conditions.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Rural Residential	Large lot/tract single-family residential Agricultural
SOUTH:		City of Derby	Urban scale single-family residential Golf course, multi-family residential
EAST:	"RR"	Rural Residential	Large lot/tract single-family residential
WEST:	"RR"	Rural Residential City of Derby	Large lot/tract single-family residential Urban scale single-family residential

PUBLIC SERVICES: 63rd Street South is a 2-lane, paved County highway. The 2030 Transportation Plan projects 63rd Street's status to change to a 4-lane arterial. 63rd Street, from Buckner to Rock Road is listed in the 2005 CIP, to become a 4-lane arterial. The 2006 CIP has 63rd becoming a 4-lane arterial, from Rock Road, east to the Sedgwick – Butler county line. Nancy Lane is a paved residential road. The site is in a Rural Water District #3. The site has septic; there currently is no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "Rural". The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principle dwelling as a "Conditional Use" if the proposed use is compatible with the principle dwelling, is in character with the surrounding residential development, is accessory to the main structure, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code.
2. The accessory apartment shall be subject to all requirements of the Derby Zoning Code.
3. Provide a revised site plan showing the location of the accessory apartment within 60 days of approval of this request, showing all setbacks, reserves and easements. If the building is encroaching into the setbacks for the "RR" zoning district, the applicant will have to apply to the MAPD for a variance to allow the encroachment.
4. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is changing from rural agricultural and scattered large lot/tract single-family residential in character, to urban scale single-family residential. The site sits in a small large lot/tract single-family residential development that was built in the late 1950's through the 1960's and ending in the mid 1970's. Types of residential housing and their building materials in the area are single story with wood frame, brick, and a mix of brick with some type of composite or wood siding. The growth of the City of Derby has introduced urban scale single-family residential housing with public sewer and water into the area.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a "Conditional Use" in "RR" zoning provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet these, although the location of the accessory apartment in relation to setbacks, reserves and easements needs to be determined.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the conditions for accessory apartments by the UZC and the City of Derby's Zoning Code.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Unified Zoning Code makes specific provision for accessory apartments in "RR" zoning. This application appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The applicants' request should have a minimal impact on community facilities; there is no public water or sewer available at this time. The site is in Rural Water District #3.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (8-0).

11. **Waterwalk Redevelopment Project Plan East Bank Redevelopment District, presentation by Allen Bell, Director of Economic Development.**

ALLEN BELL, DIRECTOR OF ECONOMIC DEVELOPMENT presentation. What the Planning Commission is being asked to do today is make a finding that The Waterwalk Redevelopment project, known as the Waterwalk Redevelopment project, is consistent with the Comprehensive General Plan for the development of the City of Wichita. That is what we did last March, but when we took the project plan to the City Council for approval under state law it required a 2/3-majority vote to approve the project plan, and we were unable to get the 2/3-majority approval. There was about to be changes to the City Council, and City elections were just a few weeks away, and with the election of a new Mayor, and set about to renegotiate certain aspects of the redevelopment project with the developers, and has done that, and we have now an agreement between a super-majority of the City Council and the developers as to what the development project should comprise, and we are now going back to the City Council with a revised project plan, and seeking final approval from the City Council.

MCKAY Will you try and explain briefly why T.I.F. is so important to this particular project.

BELL The T.I.F. is a tool that State law gives to us to capture the new tax revenue that is created by new development, and recycle that into the development project. One of the consequences of development, not just redevelopment, but development in general is that it increases property values, and increased property values increases tax revenue. This allows us to use this future stream of additional incremental new tax revenue as seed money to construct public amenities, and helps with site assemblage that then fosters this new private taxable development that in turn creates the new tax revenue that goes to pay for these public amenities.

MCKAY It is not only economic development; it is also a tax benefit?

BELL Absolutely. We will use bonds, of course, to finance the waterway and the road work and the parking, and that sort of thing, and once those bonds have been repaid, all of this new property value and new tax revenue will accrue to the City, County and the School District, and to the State to a certain extent.

HENTZEN Does this Waterwalk development become part of the T.I.F. District that is already established?

BELL It is, in fact, a part of an existing T.I.F. district. In 1995, we created the East Bank T.I.F. District to assist us in developing the Hyatt Hotel Project. State Law allows you to establish a district, and then do a succession of projects if the opportunity presents itself. Even when we started the District in 1995, one of the documents in your plan is something they refer to as a District Plan. That Plan is a very brief plan that describes what the general intent of redevelopment in the area was, and this was included in that.

We knew even then that we wanted to develop commercially, not just with the hotel and with public buildings, but with a commercial development with that East Bank south of Century II.

HENTZEN Wherever you have water, is it going to be river water, or what?

BELL It has been described to us as a long skinny winding swimming pool. It will be City water. It will be treated, and it will be all concrete. It will not actually connect to the river because of the elevation issues, but there is a feature at that riverbank, and it will kind of be like a waterfall or water wall where water cascades from the waterwalk level down to the river level, and then be recycled back up again.

BARFIELD On the property, how much property will have to be purchased for this project?

BELL The property has already been purchased. There is one very small parcel of land which we are still in the process of acquiring which is actually a parking lot now down on Dewey Street; but all of the other property has been purchased. Much of it had been acquired here and there, and off and on between the 1960's – early 1990's. We acquired a piece of land... you know where WABA building was. All of that property had been reduced in value over the years through property value appeals, and that sort of thing. So I think it was safe to say that all of it was acquired above the County appraised value.

HENTZEN If you had all the approvals and everything, how many years will it take?

BELL With your approval, and assuming the 2/3 majority vote from City Council, demolition will begin during the next 60 days, and construction will begin sometime in the late summer and early fall. Our part will be completed within 3 years by contract, and so by the end of 2006 we will have completed the canal, the road realignments, all of the public plazas etc. During that time, the private sector will have built the destination retail building, the retail pad sites will have been built out, and this building here, Central Office building, will have been built by then. We anticipate the whole area will be built out by the end of 2010.

HENTZEN If we could just have it come in after we get Kellogg in we can move those crews over there. It is going to take a lot of work.

MCKAY Maple Street, you are taking it and moving it to an angle and tie it into Waterman. That is one of the major arterials. Has a traffic study has been made that traffic will be going on Maple up to Waterman; now that will be through street correct?

BELL Yes, it will be.

BISHOP Has Planning staff review this plan?

BARBER Yes, we have reviewed this plan, and we find the project consistent with the Comprehensive Plan.

BARFIELD Did you expect staff to find otherwise?

MOTION: To approve project as consistent with the Comprehensive Plan.

MCKAY moved, **HERNANDEZ** seconded the motion, and it carried (7-0).

The Metropolitan Area Planning Department informally adjourned at 4:45 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2004.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)